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A NEW PLAN FOR THE CONTROL OF QUASI-PUBLIC WORKS.

THE problem of controlling in the interest of the whole community the quasi-public works upon which the very life of a large municipal group depends is unquestionably one of the most pressing practical problems now before the American public. The individual is wholly dependent upon a system—whether managed by the municipality or by a private corporation—over which he has no direct control, for the supply of water, lights, transportation, and communication ; and yet life is hardly worth living unless his demand for these goods is fairly well met. Nor is the welfare of the community secured unless these goods are put at the disposal of practically the whole population. But the experience of American municipalities in securing the means for the supply of these imperative individual and social wants has not been gratifying. The recent examples of the granting and extending of street-railway franchises in Chicago and of the virtual gift of the Philadelphia gas-works to a private corporation serve to bring the difficulties to public attention ; but these are simply two glaringly bad illustrations of a system which is everywhere thoroughly bad.

The solution usually proposed by thoughtful persons has been public ownership ; but many objections have been raised to this proposition. The objection that it is a socialistic measure does not, of course, require serious attention. But the objection that our corrupt political system renders such a method impracticable is one that cannot be so easily dismissed. It has been well said in reply to this objection that the railways, gas-works, etc., are in politics anyhow ; and that experience with water-works under municipal ownership has not been as unsatisfactory as experience with gas-works, electric-light works, and street railways under the control of private corporations which are ever ready to corrupt councils, and which corrupt councils are ever ready to “hold up.” It is true that, in spite of our spoils system, the water supply, sewerage systems, and streets of our large cities have been about as well cared for as would have been the case under private control, and probably at much less cost to the people. But there is a difference between these and other public works. The streets and sewers

had never fallen under private control, so that no private agencies were organized to bid for them until the people had become so accustomed to regard them wholly as a public property that no change could possibly be brought about.

The case of the water-works is somewhat different; yet it also differs from the other public works. Although many of our municipalities have private water-works, the prevailing sentiment, especially in the larger cities, is in favor of public works. And where the water is supplied by a private corporation, there are more efficient control by the public authorities, fewer charges of corruption, and less complaint, except in times of drought, of inadequate supply, than is the case with other public or quasi-public works. The fact that public ownership of water-works is relatively so common, and that under private ownership relatively efficient public control is possible, is probably due to the fact that the supply of water has been regarded as analogous to the police and sanitary functions of the municipality. The courts have uniformly taken this view, though they construe the provisions of charters in all other respects with great strictness, regarding them as permitting the exercise of no powers which are not specifically granted. In proportion as the water supply has been a necessity, the municipal authorities have maintained a supervision which, though frequently inadequate, is superior to that which they exercise over any other public works. The relative freedom from corruption may, perhaps, be explained by the nature of the enterprise. Natural conditions usually limit the water supply; and this fact not only causes a public demand that it shall be controlled by some agency that will not be interested in restricting it, but precludes the possibility of competing companies. Perhaps not ten cities in the United States have ever had duplicate water systems. The presence of rival companies is one of the most fruitful causes of legislative corruption, and leads, in most cases, to a consolidation, by which the public can be forced to pay profits on duplicate plants. In the management of public water systems there has been much corruption in the awarding of contracts, and many inefficient men have been employed; but, on the whole, there have been no scandals to parallel those which so frequently arise in connection with other public works. Finally, the consequences of an insufficient or tainted supply of water are so patent, and the means of judging whether the required standard is being reached or not are so simple, that public opinion is easily and quickly brought to bear upon the

management. Because the public consciousness is so alert upon this question, fewer complaints are necessary; and except in times of drought, or in cases where the supply is polluted by causes for which no one is to blame and which cannot be immediately removed, there is little dissatisfaction.

Now the case is different with every other form of public service. From the beginning of a settlement, everybody wants water; but the demand for gas, electric lights, telephones, and rapid transit is only gradually developed. These things are luxuries when they are first introduced. A demand for them has to be created. Therefore there is room for individual initiative. Frequently a private undertaker has little difficulty in getting a franchise, but much difficulty, at first, in making his enterprise pay. To the general public, then, it is of little moment whether the consumer has to pay much or little for his product or service; for the general public does not consume. The function is not essential to the welfare of the whole community; therefore, the community is not interested in gaining control over it. If the undertaking proves to be profitable, the community may regard it as a fit subject for taxation; but beyond this there is little public interest. This condition of affairs has existed in most cases when these works have been initiated. Although, later, many towns may become so anxious for them that they are willing to stimulate undertakers to come to them, the method of private, irresponsible control has become so universal that any other plan is then seldom considered.

But the changing conditions of city life are such that, one after another, these things become necessities. It is in the interest of civic welfare to have good and cheap means of illumination, heating, communication, and transportation. There is a growing recognition of this fact; yet it has been thus far true that efforts of reformers have been chiefly directed to the securing of compensation for franchises which make it possible for the private corporations to gain immense profits, and not to the lowering of the cost to the consumer. The latter has not been left entirely out of consideration; but the question has usually been made one of finance, rather than one of raising the standard of comfort of the masses and of establishing communicating systems which both relieve congestion and bind the sections of the city together in a more organic life. So long as the managers of these quasi-public works enjoy monopoly benefits, the community will be benefited by taxing the franchises. But the use of these products and

services is so distinctly to the advantage of the community life that it would be much better to render them at cost, if possible. Taxation might better be laid somewhere else, provided the advantage of lower cost of production could be secured to the consumer.

The only condition, however, under which the latter can be secured is the management of quasi-public works absolutely as trusts. Whether such management can be secured by public ownership seems doubtful. It was not in Philadelphia. The gas plant was mismanaged for years, and then given away for the private benefit of certain councilmen and a powerful corporation.¹ Eradicate the spoils system, elect better councilmen, and throw legal restrictions in the way of a repetition of such a transaction—all of which may or may not be accomplished in this generation—and there might still remain objections to public ownership. In a democratic country there is danger that a settled business policy, such as is necessary in the management of these great enterprises, may not be possible, especially within small areas where dissatisfaction can be easily stirred up. Even the educational system, within which there are greater possibilities for the development of expert service than in almost any other public employment, is still largely dominated by political methods, and influenced by popular prejudices.² A few such difficulties in an industry where much depends upon economical management and the employment of the proper help would be ruinous, and would lead to the abandonment of the system, as was done in the case of our early state railways.

Furthermore, it may be questioned whether it is desirable to bring these quasi-public works under conscious public control. That they should be socially controlled can scarcely be questioned; but that it is either desirable or possible to make that control continuously conscious may be seriously questioned. Society is too complex for complete socialized ownership of the agencies which are now employed, and these agencies are likely to be multiplied in the future. The citizen is not willing to pay the price of conscious control of the few enterprises now conducted by the municipality. It is to be hoped that a deeper and more intelligent interest in civic affairs may be developed; but it is doubtful whether

¹ See AMERICAN JOURNAL OF SOCIOLOGY, March, 1898; *Annals of American Academy* ("Municipal Notes"), January, 1898.

² For example, the Kansas State Agricultural College. See AMERICAN JOURNAL OF SOCIOLOGY, November, 1897.

the time will ever come when the really useful citizen, whose life is full of duties, will be able to act intelligently in the control of all the various agencies of social service which our complex municipal life will require. There is no advantage in having a government do things simply for the sake of doing them. It is no more to the interest of society to be obliged to consciously control all of its organs than it would be to the interest of a man to be obliged to consciously control the flow of blood to his brain. So, if the social service can be adequately secured without ownership, ownership will be a mere burden, not an advantage. If the *values* of these activities can be secured to society without the socialization of the *form* of the industry, all that is desirable will be gained, and the burdens will be avoided.

The above statements have been made in order to set forth the place and importance of a plan recently brought forward by Mr. Alfred F. Potts, a prominent attorney of Indianapolis. His plan of control of quasi-public works is, in brief, the management by disinterested trustees of institutions endowed for the purpose of rendering the public service at cost. He does not make the proposition as an experiment, but advocates a plan which has been demonstrated to be successful, though applied under difficult circumstances.

The plan may, perhaps, be best understood by reviewing it in its experimental application in Indianapolis. In 1887, when natural gas was about to be introduced into Indianapolis, the Indianapolis Gas Company, which had constructed pipe lines from the fields, some twenty miles north of the city, to the city limits, declared that it would not bring the gas into the city unless the rates which had been fixed by a city ordinance could be doubled. These rates were already liberal; so this move of the company was in the nature of "sand-bagging." A storm of indignation was aroused, and various projects were suggested for the control of the industry. The agitation resulted in nothing more than the increase of the public indignation, until Mr. Potts devised the plan that was formulated on November 2, 1887, in the articles of association of the "Consumers' Gas Trust," which will be discussed more fully later. Mr. Potts had to keep up a constant battle to prevent the council from hastily passing the old company's ordinance. An active canvass was made in every ward of the city for popular subscriptions, at \$25 per share, to the stock of the trust. Five hundred thousand dollars was subscribed within three weeks; and the stock was so scattered among the voters that the council did not dare to

pass any regulation interfering with the work. The difficulties encountered in the prosecution of the enterprise were so great that the stock had to be increased to \$605,000, and indebtedness incurred amounting to \$750,000. The company has been in successful operation up to date, and now has 325 miles of pipe line, drawing from 230 gas wells. Both the trust and its rival have found the rates fixed by the ordinance ample. These rates guarantee fuel to the people of the city at one-third the cost of coal; and the aggregate saving to the consumers, over what the cost would have been had the rates been doubled, has been not less than \$1,000,000 per year. The company has paid dividends and interest on the capital invested at the rate of 8 per cent., has paid off all of the indebtedness, and has returned to the stockholders all that they invested except \$236,000. When this latter amount is paid, gas will be furnished to the consumers at actual cost. This favorable business showing is possible in spite of the fact that the industry is one that is subject to the law of diminishing returns. Every year, in order to supply the increasing demand, new wells have to be opened, farther and farther from the city, until now some are forty miles away.

Mr. Potts did not feel like pushing his plan farther until it should have been tested in this case. He is now convinced—and in this opinion he is upheld by the leading business and professional men of Indianapolis—that the plan has worked so successfully that it is now time to apply it to the management of other quasi-public works. At a recent meeting of the Commercial Club he suggested that steps be taken to bring the street-railway system, which is quite likely to be for sale or to be forced to sell within a few months, under the same method of control. He has still more recently urged the city authorities, who are being pressed for a franchise by independent telephone companies, to grant a franchise to a telephone company organized on the plan of the gas trust. This latter will be a comparatively simple enterprise, unless the city authorities favor the other applicants. It is proposed to offer to purchase the plant of the Bell Company, giving a small bonus for its franchise, if it will sell; otherwise, to construct a new plant and force the old company out of the field. Greater difficulties are in the way of the street-railway movement, but they are not thought to be insuperable.

The plan of organization under which the gas trust has been operated, and under which it is proposed to bring all other quasi-public works, is as follows :

1. A stock company is formed, and, by the terms of incorporation, the stockholders assign their shares to a self-perpetuating board of trustees, who are given irrevocable power to vote the same for directors. Thus, if a majority of the shares should fall into the hands of one person, he would have no control of the company. The articles of incorporation provide that "Any member of the board of trustees may be removed by the Marion circuit court upon the showing that said trustee is an employé or holder of any of the securities or capital stock of any other company organized for the purpose of manufacturing or delivering artificial or natural gas to consumers residing in, or in the vicinity of, the city of Indianapolis, or for any corrupt practice or any misconduct which said court may deem detrimental to the interests of said company." It is, therefore, practically impossible for the enterprise to fall into the hands of a rival, even though the latter might buy up all the shares of stock.

The trustees serve without compensation. The board appointed in the beginning by the articles of incorporation is almost certain to be composed of reliable men. Their terms are not limited in the case of the gas trust, but it may seem more desirable to have a certain number of the trustees go out of office at stated intervals in order to bring new ideas in, and to prevent the whole board from growing too old. The board fills vacancies in its own body. It is, therefore, not under the control of stockholders, nor of the political authorities, though it may be controlled by a legal process if there is evidence of corruption or mismanagement. The organization is thus seen to be similar to that of our best universities. The means of public control must be found in public opinion, which needs to be aroused only when friction occurs. But since the trustees can derive no pecuniary advantage from the management of the concern, they must serve from the social motive, and may be expected to regard their trusts. It is true that an educational institution may be more sensitive to public opinion than one of these natural monopolies, because students may easily be turned to some other school; but, on the other hand, the standards by which the service of one of these public enterprises may be judged are more likely to be intelligently held by the general public, so that public opinion is more likely to be rational. If able business men are willing to give their time to the oversight of a great university purely from the social motive, and manage it more entirely as a public trust than any purely private or wholly public institution is managed, it is not

unreasonable to suppose that men can be found who are willing to serve as trustees of the public in controlling other important institutions. Why not? Some of these public works are as essential to the social welfare as schools and churches, and though they are *economic* institutions, there is no valid reason why the *social* motive may not be adequate to provide the service. Experience in one instance in Indianapolis has not been disappointing. It may be questioned, however, whether satisfactory trustees can usually be found or sufficient capital secured for the organization, on this plan, of entirely new enterprises—those which have to create a demand, those whose social values are not yet appreciated by very many people. Nor may it be commonly possible to secure suitable trustees in very small towns. But for the supply of felt needs in the larger municipalities it does not seem that an efficient organization should ever be impossible. To secure it, however, it is necessary that the initiators of the movement shall be disinterested and intelligent men.

2. The immediate management of the concern is in the hands of directors chosen annually by the board of trustees. The compensation of the directors is "fixed at the expiration of each year's service by the board of trustees, upon a showing made of the services rendered." The directors are restricted in their power to contract indebtedness, and no indebtedness of any kind may be contracted except upon consent of two-thirds of the board of directors. The division of labor among various committees of the directors is quite complete, but the approval of the board of directors is required before the action of the more important committees is binding.

A further precaution will be taken in future applications of the gas trust plan; viz., that instead of making the publication of the accounts optional with the trustees and directors, it is to be provided that a report must be filed semi-annually with the city comptroller, and that the city comptroller may inspect the books of the company at any time.

3. The necessary capital is secured by popular subscription, the shares being fixed at \$25. It is necessary that such movements shall be backed by local capital, and it is desirable that as many people as possible shall be directly interested in its success. Incidentally, a splendid means is provided for short-time investment of savings by persons of all classes. It is provided that the dividends upon the stock shall not exceed 8 per cent. yearly, and that the amount invested shall be returned to the investors as soon as possible. The shares of stock will still be owned by the stockholders, and the necessary legal fiction of ownership

maintained ; but the stock will have no pecuniary value, and will give its owners no control over the concern. Although those who furnish the first capital are recouped, the institution is finally endowed. It is probably impossible to look for immediate endowment of such institutions from the surplus wealth of rich men; but that may come in time.

The rate of interest is rather high, and may, in some places at least, be reduced. But it must be remembered that some degree of risk is involved, that the control of the stock is lost, and that the capital must ordinarily be drawn from the local community; so that the lowest competitive rate of interest cannot be secured. An advantage to the community is found in the fact that the interest is ordinarily retained in the neighborhood.

But if the capital must ordinarily be gathered up in the local community, the plan of organization will be applicable only in those cities where there is some surplus wealth. If public works are to be constructed greatly in advance of the ability of the community to pay for them, capital must be drawn from abroad ; and, if it is drawn from abroad, the foreign capitalist will not allow the control of the enterprise to pass out of his hands. He must have actual control or a mortgage lien. However, it is doubtless true that most of the larger cities, even in the West, possess enough surplus wealth to pay for public works of this sort. Street paving and public buildings could still be constructed by capital borrowed from outsiders, at lower rates than those paid for capital used on the quasi-public works. In order, also, that the purpose of the organization may not be finally frustrated, it is necessary that its indebtedness shall never become unmanageable. The actual plant must be constructed, and most of the floating capital provided, out of the capital stock. Provision must be made for necessary expansion, out of the earnings or by increase of capital stock. A small bonded or floating debt might be safely handled ; but a large one is likely to throw the whole industry into the hands of creditors, on account of a default in payment of interest caused by some very slight temporary backset which does not interfere with the general prosperity of the industry in the least. As we have seen, the gas trust successfully carried, and has entirely liquidated, a very considerable debt ; but it seems desirable, in order to insure the kind of control required, that dependence should be wholly upon the capital stock, the owners of which can never gain control. A small floating indebtedness might be permitted, but it should be strictly limited in amount.

A further provision, which is not found in the gas trust articles,

should be made, to determine how the property should be disposed of, if it should be found desirable to wind up the affairs of the corporation. Without such a provision, if the company should go into liquidation, the final proceeds would go to the old stockholders. But the plan contemplates no return to them, after they shall have received the face of their stock and dividends equivalent to 8 per cent. on their capital until it is returned. The proceeds from liquidation should go to some public cause.¹

4. Finally, and most important, perhaps, is the provision that service shall be rendered at actual cost, after these returns shall have been made to the stockholders. It is not to be supposed that a company organized on this basis will charge unreasonable rates up to the time that the obligation to the stockholders is fully discharged; but the full benefits to the public are secured only after that has been done. The gas trust has already saved to the consumers about \$10,000,000; but it will become more completely a public servant after the remaining payments shall have been made to stockholders. An industry which comes under the law of increasing returns—and practically every one except the natural-gas industry does—will make much larger profits, and thus be able to pay off the stock obligations and to reduce the cost of production more rapidly. It is possible, however, that it may sometimes be found advantageous to pay back the face of the stock more slowly, thereby making possible a more immediate reduction in the cost to the consumer.

There may, indeed, be cases in which it will seem more desirable to turn the profits of the enterprise to some other public purpose, instead of lowering consumers' costs. The objections to taxing the franchises, or even the plants, of these public agencies have already been stated; but there may be instances where a real public need is supplied by the industry, and yet where the immediate consumers are a class which may well be taxed. For example, if the telephone service of Indianapolis is organized on this plan, the company—which, of course, will here mean the consumers—will probably pay to the city \$5,000 for the first 5,000 instruments and \$2 per instrument for all above that number, objections can be made to this plan only when the telephone ceases to be in any sense a luxury. Again, it may seem desir-

¹ Since the above was written the articles of the proposed telephone company have been drawn up. These provide for the application of the proceeds of possible liquidation to public purposes.

able to let the street-car fare remain unchanged, and turn the profits of the business to the park fund. However, there are serious objections to this ; for it would be better to tax the land-owning class to maintain the parks than the mass of those who need the street-car service. Lower car fares would help to relieve the congestion in the city, would make the larger parks available to larger numbers of the class which most needs them, and would thus be a proper auxiliary to a park system. However, all of this is a matter of detail. The essential feature is the control of quasi-public works in the interest of the community.

Defects may be found in the plan suggested by Mr. Potts ; but he has certainly made a contribution that is worthy of consideration by students of municipal problems. It seems to be a plan which will secure adequate control without throwing these works into the hands of the spoils politician. It depends upon a public opinion, such as ultimately controls our greatest educational institutions ; and may in these cases be expected to control, though not radically, the management of non-political institutions. It uses our most highly developed business methods in the service of the public, and secures to the public all of the possible advantages of those methods. It secures the complete socialization of the values of social functions, and yet does not throw the strain of frequent oversight of complex institutions upon the social consciousness. This last seems to be *the* desideratum. It might be secured by expert official service, but, unless this should become an intolerable bureaucracy, it must be subject to the fitful changes of our political life ; whereas the Indianapolis plan provides for a management whose policy cannot be revolutionized by a spasm of popular prejudice, yet which must be gradually readjusted to meet social needs by the pressure of public opinion at important crises, and which for the faithful performance of its trust will be under *legal* rather than *political* control. In so far as political regulation is necessary, it will undoubtedly be found true, when the semi-public corporation is stripped of its corrupting power, that the municipal government will be found more regardful of the public interests in controlling the corporation as a servant than it would be in controlling itself in the direct management of the quasi-public works ; just as the national government is a hard taskmaster in controlling the note issues of the banks, while it is ever in danger of becoming most self-indulgent in controlling its own note and silver issues.

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